

1 I, Donald J. Fritsch, declare the following:

2 1. That I am employed by First Legal Investigations, am a licensed private
3 investigator, am over the age of 18, am not a party to the within named action and that if called
4 upon to testify to the facts stated herein I could and would competently do so.

5 2. I was instructed by Mulcahy LLP, hereafter referred to as the "Client", to inspect
6 the premises of Hi-Time Wine Cellars, Mission Wine & Spirits and Remedy Liquor to determine
7 if these liquor stores maintained 3 Kilos Vodka in inventory for sale to the general public.

8 3. On August 2, 2016 at approximately 2:06 p.m. I arrived at Hi-Time Wine Cellars
9 located at 250 Ogle Street in Costa Mesa, California 92627 and entered the premises through the
10 main front door. Attached as Exhibit 1 is a true and correct photograph that I took of the store
11 front of Hi-Time Wine Cellars. I walked to the liquor aisle that contained numerous bottles of
12 vodka from various distillers placed on shelves for sale to the general public. In and amongst the
13 various brands of vodka, I located bottles of vodka branded as "3 Kilos Vodka" in a gold colored
14 bottle in the approximate shape of a gold bar and made of what appeared to be glass. Attached as
15 Exhibit 2 is a true and correct photograph that I took of the display of vodka at Hi-Time Wine
16 Cellars. The bottle was formed in such a manner as to contain the letter "3" surrounded by a coat
17 of arms or similar appearing symbol with the word "Kilos" underneath it and the word "vodka"
18 located to the right with the letters descending from top to bottom. I observed that there were 5
19 such bottles contained in a straight line, one behind the other, on the shelf and a price label
20 attached to the shelf in front and below the row of 3 Kilos Vodka containing three lines that read:

21 3 KILOS ULTRA PREMIUM VODK

22 SALE \$43.99

23 Retail Price \$49.99

24 I obtained a single bottle from the shelf and walked to the cashier counters at the front of
25 the store at which time I purchased this bottle for the marked price of \$43.99 plus \$3.52 tax for a
26 total purchase price of \$47.51. Attached as Exhibit 3 is a true and correct copy of the receipt
27 from Hi-Time Wine Cellars. During this visit, I photographed the 5 bottles of vodka marked "3
28 Kilos Vodka" upon the shelf they were located on along with the price label, the entire contents
of the purchase consisting of a non-marked paper bag/the bottle marked "3 Kilos Vodka"/sales
receipt and the front of the establishment including the sign identifying the establishment as Hi-

1 Time Wine Cellar. Attached as Exhibit 4 is a true and correct photograph that I took of the paper
 2 bag/bottle and sales receipt from Hi-Time Wine Cellars. Thereafter, I departed the location at
 3 approximately 2:12 p.m. with the purchased item in my possession.

4 4. On August 2, 2016 at approximately 4:03 p.m. I arrived at Remedy Liquor located
 5 at 825 W. Glenoaks Boulevard in Glendale California 91201 and entered the premises through
 6 the back door from the parking structure. Attached as Exhibit 5 is a true and correct photograph
 7 that I took of the store front of Remedy Liquor. I walked to the liquor aisle that contained
 8 numerous bottles of vodka from various distillers placed on shelves for sale to the general public.
 9 Observing there were no bottles branded "3 Kilos Vodka" on the open air shelves, I took several
 10 steps to the refrigerated cooler section nearby and located, in and amongst the various other
 11 brands of vodkas, an undetermined quantity of bottles branded as "3 Kilos Vodka" in a gold
 12 colored bottle in the approximate shape of a gold bar and made of what appeared to be glass.
 13 Attached as Exhibit 6 is a true and correct photograph that I took of the display of vodka at
 14 Remedy Liquor. The bottle was formed in such a manner as to contain the letter "3" surrounded
 15 by a coat of arms or similar appearing symbol with the word "Kilos" underneath it and the word
 16 "vodka" located to the right with the letters descending from top to bottom. Due to the tightly
 17 packed configuration of other distiller's vodka bottles on the left and the right, I could not make
 18 an accurate count of the "3 Kilos Vodka" bottles without removing each bottle from the cooler. I
 19 refrained from removing and counting all the bottles due to a store employee standing within a
 20 few feet of my location but I observed that there was at least one more such bottle contained in a
 21 straight line, one behind the other, on the cooler shelf and a price label attached to the shelf in
 22 front and below the row of "3 Kilos Vodka" with the red and white "Remedy Liquor" logo on
 23 the left and right of the white price label containing three lines that read :

22 3 KILOS ULTRA 750ML

23 PREMIUM HOLLAND

24 \$42.99+TAX

25 I obtained a single bottle from the shelf and walked to the cashier counter at the front of
 26 the store at which time I purchased this bottle for the marked price of \$42.99 plus tax for a total
 27 purchase price of \$46.86. Attached as Exhibit 7 is a true and correct copy of the receipt from
 28 Remedy Liquor. During this visit, I photographed the bottles of vodka marked "3 Kilos Vodka"
 along with the price label, the entire contents of the purchase consisting of a paper bag marked

1 “Reusable Bag” with a world globe logo and other writing/the bottle marked 3 Kilos Vodka/sales
 2 receipt and the rear and front of the establishment including the signs identifying the
 3 establishment as Remedy Liquor and Wine & Cigar Remedy Liquor. In photographing these
 4 items, I noticed that the time as contained on the receipt was inaccurate. Thereafter, I departed
 5 the location with the purchased item in my possession at approximately 4:18 p.m. Attached as
 6 Exhibit 8 is a true and correct photograph that I took of the paper bag/bottle and sales receipt
 from Remedy Liquor.

7 5. On August 2, 2016 at approximately 4:24 p.m. I arrived at Mission Wine &
 8 Spirits located at 1700 W. Glenoaks Boulevard in Glendale, California 91202 and entered the
 9 premises through the main front door. Attached as Exhibit 9 is a true and correct photograph that
 10 I took of the store front of Mission Wine & Spirits. I walked to the liquor aisle that contained
 11 numerous bottles of vodka from various distillers placed on shelves for sale to the general public.
 12 In and amongst the various brands of vodka, I located bottles branded as “3 Kilos Vodka” in a
 13 gold colored bottle in the approximate shape of a gold bar and made of what appeared to be
 14 glass. Attached as Exhibit 10 is a true and correct photograph that I took of the display of vodka
 15 at Mission Wine & Spirits. The bottle was formed in such a manner as to contain the letter “3”
 16 surrounded by a coat of arms or similar appearing symbol with the word “Kilos” underneath it
 17 and the word “vodka” located to the right with the letters descending from top to bottom. Due to
 18 the tightly packed configuration of other distiller’s vodka bottles on the left and the right, I could
 19 not make an accurate count of the “3 Kilos Vodka” without removing each bottle from the shelf.
 20 I refrained from removing and counting all the bottles due to the proximity of their location
 21 relative to the cashier counter manned by two store employees but I observed that there was at
 22 least one more such bottle contained in a straight line, one behind the other, on the shelf and a
 23 price label attached to the shelf in front and below the row of “3 Kilos Vodka” containing two
 lines that read :

24 3 Kilos Vodka 750ML

25 \$42.99

26 I obtained a single bottle from the shelf and walked to the cashier counter at the front of
 27 the store at which time I purchased this bottle for the marked price of \$42.99 plus \$3.87 tax for a
 28 total purchase price of \$46.86. Attached as Exhibit 11 is a true and correct copy of the receipt
 from Mission Wine & Spirits. The cashier who rang up my purchase was particularly friendly

FIRST LEGAL INVESTIGATIONS


PI 24171 (CA)

PI 1551710 (AZ)

PI-PS 1452 (NV)

1 and a brief conversation ensued between us about this vodka and another spirit. I inquired how
2 many bottles they had in inventory and she looked up her inventory list on the cash register and
3 advised that it indicated they had a total of 3 bottles at this location and also had other bottles in
4 inventory at their other location up near Maple Avenue. I asked if she had a business card and
5 she wrote her name as Lydia on one and provided it to me. Attached as Exhibit 12 and Exhibit 13
6 are true and correct copies of the business card and other locations of Mission Wine & Spirits.
7 During this visit, I photographed the bottle at the front of the shelf marked "3 Kilos Vodka"
8 along with the price label, the entire contents of the purchase consisting of a non-marked paper
9 bag/the bottle marked "3 Kilos Vodka"/sales receipt/business card and the front of the
10 establishment including the sign identifying the establishment as Mission Wine & Spirits.
11 Attached as Exhibit 14 is a true and correct photograph that I took of the paper bag/bottle and
12 sales receipt from Mission Wine & Spirits. Thereafter, I departed the premises with the
13 purchased item in my possession at approximately 4:47 p.m.

14 I declare under penalty of perjury, under the laws of the State of California, that the
15 aforementioned is true. Executed this 3rd day of August, 2016 in Santa Ana, California.


Donald J. Fritsch
Investigator
First Legal Investigations
PI ID: 24171